



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10**

1200 Sixth Avenue, Suite 900  
Seattle, Washington 98101-3140

MAY - 5 2015

OFFICE OF  
COMPLIANCE AND ENFORCEMENT

Reply To: OCE-133

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

**NOTICE OF VIOLATION and REQUEST FOR INFORMATION**

Mr. Mark Lynch  
City Manager  
P.O. Box 608  
Whittier, Alaska 99693

Mr. Scott Korbe  
Public Works Director  
P.O. Box 608  
Whittier, Alaska 99693

Re: August 20, 2014 NPDES Compliance Inspection  
City of Whittier Wastewater Treatment Plant  
NPDES Permit No. AK0025402

Dear Messrs. Lynch and Korbe:

The U.S. Environmental Protection Agency (EPA) issued National Pollutant Discharge Elimination System (NPDES) Permit No. AK0025402 (Permit) to the City of Whittier in November 1983 for its wastewater treatment plant (WWTP). The purpose of this notice of violation is to notify the City of Whittier (City) of violations that the EPA discovered during a review of administrative files and as a follow-up compliance evaluation to the EPA August 20, 2014 inspection of the WWTP, and to request information about corrective actions to prevent future Permit violations.

**AUGUST 2014 INSPECTION**

The purpose of the inspection was to determine the City's compliance with the requirements of the Clean Water Act (CWA) and the Permit. The EPA inspector identified several areas of concern during the August 20, 2014 inspection. I have enclosed a copy of the 2014 inspection report (without the compact disk photograph attachment) for your information. I would like to express my appreciation for your staff's time and cooperation during the inspection.

**REVIEW OF ADMINISTRATIVE FILES**

The EPA reviewed the inspection report, the Permit's administrative files and the City's discharge monitoring reports (DMRs) submitted to EPA through December 2014, and recent information provided by City staff regarding tank sludge measurements. The EPA has identified the following violations:

1. Effluent Violations. The Permit, Parts A.1. - A.2., identifies various effluent limitations and requires monitoring for specific parameters. The City-submitted DMRs demonstrate that some effluent limitations have been violated in the recent past. Attachment A is enclosed with this notice of violation (NOV) and it summarizes the effluent limitation violations identified from the City's DMRs.
2. Nonindustrial Toxics Control Program & Annual Report. The Permit, Parts C.2. and D.3., requires the City to develop and implement a nonindustrial toxics source control program designed to minimize the entrance of nonindustrial toxic pollutants and pesticides into the City's WWTP. This toxics source control program is a requirement of the City's Section 301(h) waiver. *See* 40 C.F.R. § 125.66(d)(3). In accordance with the Permit, Part D.3., the City is required to submit an annual report by December 31 summarizing the actions taken to control nonindustrial sources of toxic pollutants and pesticides. EPA staff were not able to locate any City annual reports for the period of 2010-2014. The requirement for this control program and annual report was brought to the City's attention after the EPA September 2010 inspection in an EPA October 2010 email which is Attachment B to the enclosed 2014 inspection report. The failure to implement an ongoing nonindustrial toxics source control program and file associated annual reports in accordance with the Permit requirements constitutes violations of the CWA, 33 U.S.C. § 1251 *et seq.*
3. Sludge Depth Measurements. The Permit, Part A.2.g., requires the City to measure the sludge depth in the WWTP septic tanks at a minimum frequency of once every four months. EPA inspectors during the September 2010 and August 2014 inspections were apprised that sludge depth measurements were being taken only once per year. The Permit requirement for the once-every-four-month frequency was brought to the City's attention after the EPA September 2010 inspection in an EPA October 2010 email which is Attachment B to the enclosed 2014 inspection report. The failure to conduct sludge depth measurements in accordance with the Permit's once-every-four-month frequency constitutes violations of the CWA, 33 U.S.C. § 1251 *et seq.*
4. Noncompliance Reporting. The Permit, Part D.7., addresses noncompliance reporting for various situations. Part D.7.a. requires the submission of a written notice of noncompliance for the violation of any schedule in the Permit's Part C, which by incorporation, includes the Permit's Part D.3. annual report requirement for the nonindustrial toxics source control program. Part D.7.e. requires reporting of all instances of noncompliance not reported under Parts D.7.b. - D.7.d. at the time the DMRs are submitted and these reports must contain the information in Part D.7.b. These Part D.7. non-compliance reporting requirements were brought to the City's attention after the EPA September 2010 inspection in an EPA October 2010 email which is Attachment B to the enclosed inspection report. The administrative file review did not locate any noncompliance reports associated with the non-submission of annual reports for the nonindustrial toxics source program, the failure to conduct sludge depth measurements at the Permit-required frequency, and for the effluent limit violations reported in May and July 2011 and July 2013. The failure to complete noncompliance reporting in accordance with the Permit's Part D.7. reporting provisions, as applicable, constitutes violations of the CWA, 33 U.S.C. § 1251 *et seq.*
5. Proper Operation and Maintenance. The Permit, Part E.6., requires the City to properly operate and maintain all facilities and systems to achieve compliance with Permit conditions at all times,

including adequate laboratory and process controls. During the August 2014 inspection, the EPA inspector observed that the WWTP did not have written procedures in place for calibrating and operating the pH meter and that at least two buffer solutions used for pH meter calibration purposes were beyond the manufacturer's expiration dates. The failure to have adequate laboratory controls constitutes violations of the CWA, 33 U.S.C. § 1251 *et seq.*

6. Proper Operation and Maintenance. The Permit, Part E.6., requires the City to properly operate and maintain all facilities and systems to achieve compliance with Permit conditions at all times, including adequate operator staffing and training. During the administrative file review and exchanges of information with City staff, the EPA was apprised that the WWTP operator was not correctly measuring tank sludge depths for at least 2010-2012. The WWTP operator apparently determined the prior sludge depth measurement process was incorrect during an October 2012 training session. The failure to have adequately trained operators for Permit monitoring purposes constitutes violations of the CWA, 33 U.S.C. § 1251 *et seq.*
7. Measurement Recordings and Records Retention. The Permit, Part D.4., requires in part that the City record at least the following information for each measurement taken pursuant to the Permit requirements: (1) the date, exact place and time of the measurement; and (2) the individual who performed the measurement. During the exchange of information with City staff about tank sludge measurements, the produced original monitoring records did not routinely contain all of the information required by the cited Permit part. In addition, the Permit, Part D.5., requires in part that monitoring records must be retained for a period of at least 5 years from the date of the measurement. In response to the EPA's request for sludge depth measurements for 2011-2014, the City was not able to produce the record for the 2011 sludge depth measurement results. The failure to have tank sludge measurement records with all of the information required by the Permit and the lack of records for the 2011 sludge measurements constitute violations of the CWA, 33 U.S.C. § 1251 *et seq.*

### **REQUEST FOR INFORMATION**

The EPA requests that the City immediately take and document corrective actions to prevent future violations of the Permit and the CWA. As a means to document the City's corrective actions, the EPA issues this Request for Information (RFI) to the City and requires that the City provide the information requested below.

This RFI is issued pursuant to Section 308 of the CWA, 33 U.S.C. § 1318. Section 308 authorizes the EPA Administrator to require owners and operators of any point source to provide certain information to EPA in order to carry out the objectives of the CWA. This authority has been delegated to the Director of the Office of Compliance and Enforcement. The EPA requires this requested information to evaluate whether the City is taking appropriate steps to achieve compliance with the Permit and CWA.

Within sixty (60) calendar days of receipt of this RFI (except as otherwise required for Item Nos. 4 and 5), the City must submit and mail detailed written responses and responsive documents for Item Nos. 1-3 to the EPA at the following address:

U.S. Environmental Protection Agency, Region 10  
Attention: Rick Cool, NPDES Compliance Unit  
1200 Sixth Avenue, Suite 900, Mail Stop OCE-133  
Seattle, Washington 98101

In the event the City is unable to provide the information requested, the City must provide the following: (a) a detailed explanation of why the required information is not currently available or has otherwise not been provided; (b) a summary of all actions taken by the City or others which the City alleges demonstrates good faith efforts to comply with this RFI; and (c) the expected date by which the City will provide the required information.

Notice is hereby given that failure to comply with this Request may subject the City to civil penalties pursuant to Section 309(d) of the CWA, 33 U.S.C. § 1319(d), administrative penalties pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g) or a civil action in federal court for injunctive relief pursuant to Section 309(b) of the CWA, 33 U.S.C. § 1319(b). In addition, nothing in this RFI shall be construed to relieve the City of the requirements to fully comply with other applicable federal, state or local laws and requirements. The EPA reserves the right to take enforcement action as authorized by law for any failure to comply with this RFI, and for any future or past violation of the CWA or any other applicable legal requirements.

The EPA requests that the City develop and submit the following information:

1. A written description of the City's nonindustrial toxics source control program, and annual reporting procedures that will be implemented in accordance with the Permit, Part D.3. in 2015 and subsequent years, to ensure the City will submit an annual report to EPA by December 31 of each year summarizing the actions taken to control nonindustrial sources of toxic pollutants and pesticides.
2. A written procedure for measuring the WWTP septic tanks' sludge depths at the minimum frequency of once every four months in accordance with the Permit, Part A.2.g., and measurement recording and retention procedures. The written procedures should address: (1) the recording of results in accordance with Part D.4 and records retention in accordance with Part D.5.; and (2) the reporting to EPA in accordance with Part D.7. of any situations that prevent compliance with the Permit's required measuring frequency in Part A.2.g.

The EPA recommends that the City consider developing a form/tank diagram for taking tank sludge measurements that will provide the information required by Part D.4. and ensure uniformity of recordings, record content and record-keeping. This type of template might also help the City track tank sludge depths year-to-year in order to observe potential correlations with effluent quality.

In addition and after the 2015 sludge measurements are taken in accordance with this RFI, Item No. 4 below, the EPA recommends that the City consider conducting the Permit's minimum frequency of tank sludge depth measurements in January, May and September of each year or some other sequence that considers the start of the City's increased summer population and the start of the fall rainy season.

3. A written laboratory procedure for calibrating the pH meter and ensuring the calibration procedures use appropriate pH buffer solutions.
4. Following the City's written procedures developed in response to this RFI, Item No. 2 above, the City shall take WWTP septic tank sludge depths in May, June, July, August and September 2015 and submit the monthly depth measurement results and sludge depth measurement records to the EPA with the City's monthly submission of the DMRs for each respective month in 2015. The City can revert to the Permit's minimum frequency of once every four months after the September 2015 sludge depth measurements.
5. The City shall continue to take monthly WWTP *influent* samples at Lift Station 4 for total suspended solids, biochemical oxygen demand (5-day) and settleable solids from April 1 to September 30 and submit the commercial laboratory's sample results reports of the influent sample analyses with the City's monthly DMR submissions. Our file review indicates that the City has been taking and reporting these influent samples since September 2009 and it is important to the Permit development and reissuance process that this influent sampling and reporting continue for these three parameters.

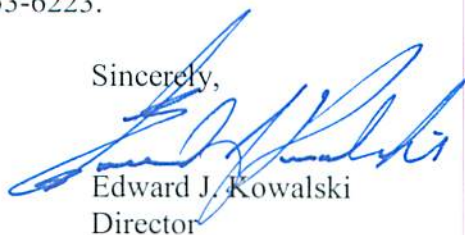
The EPA is not requesting any additional written procedures for non-compliance reporting at this time. The WWTP staff have occasionally included written summary explanations with some of the DMR submittals explaining possible reasons for the reported effluent violations. The WWTP staff's future attention to the Permit, Part D.7. non-compliance reporting requirements should ensure proper, complete noncompliance reporting in the future if the need arises.

The EPA strongly urges you to give these RFI matters your immediate attention and to respond to this RFI within the 60-day timeframe specified above for Item Nos. 1-3, and within the specified monthly DMR reporting time frames identified in Item No. 4 for the 2015 tank sludge depth measurements and in Item No. 5 for the monthly influent sampling for the three identified parameters.

The EPA exercises precautions to ensure accurate inspection findings and administrative file reviews; however, we do not want to dismiss the possibility that the inspectors may have failed to observe certain areas of noncompliance. Although the EPA's goal is to ensure NPDES facilities comply fully with their permits, the ultimate responsibility rests with the facility. As such, I want to strongly encourage you to continue your efforts to maintain full knowledge of the Permit requirements and other appropriate statutes, and to take appropriate measures to ensure compliance. Notwithstanding your response to this letter if any, the EPA retains all rights to pursue enforcement actions which may include monetary penalties to address these and any other violations.

Thank you again for your cooperation with EPA inspectors and your anticipated cooperation in responding to the RFI. If you have any questions regarding this NOV and RFI, please contact Rick Cool, Compliance Officer, at (206) 553-6223.

Sincerely,



Edward J. Kowalski  
Director

**Enclosures**

**cc w/enc: Mike Solter**  
**Alaska Department of Environmental Conservation**